

REMARKS

Claims 1, 3-12 and 14-35 were pending in the application. Claim 32 is withdrawn from consideration. Applicant cancelled claims 14, 24, 27, 29 and 30 without prejudice or disclaimer. Hence, claims 1, 3-12, 15-23, 25-26, 28 and 31-35 are pending.

Applicant amended claims 1, 3, 15, 16 and 28 as indicated above.

Claims 33-35 are allowed. Claim 16 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 is rejected under 35 U.S.C. §112, second paragraph. Claims 1, 3, 4, 10, 12, 15, 17-21, 24 and 26-31 are rejected under 35 U.S.C. §103(a). Claims 1, 5-11, 14 and 20-23 are provisionally rejected on the ground of non-statutory obviousness-type double patenting.

Applicant addresses these rejections below.

I. REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH:

The Examiner has rejected claim 14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Office Action (10/14/2008), page 2. Applicant cancelled claim 14 without prejudice or disclaimer. Hence, the rejection to claim 14 is moot.

II. REJECTIONS UNDER 35 U.S.C. §103(a):

The Examiner has rejected claims 1, 3, 4, 10, 12, 15, 17-21, 24 and 26-31 under 35 U.S.C. §103(a) as being unpatentable over Goodwin et al. (U.S. Patent Application Publication No. 2004/0022945) (hereinafter "Goodwin") in view of Badyal et al. (U.S. Patent No. 6,551,950) (hereinafter "Badyal"). Applicant respectfully traverses these rejections for at least the reasons stated below and respectfully requests the Examiner to reconsider and withdraw these rejections.

The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of Goodwin, in combination with the plasma discharge being pulsed, as suggested by Badyal, in order to achieve a greater level of structural retention. Office Action (10/14/2008), page 4. Applicant respectfully submits that the Examiner is mistaken in this assertion for the reasons below.

Goodwin teaches the use of plasma deposition of an atomised coating forming material at atmospheric pressure. Badyal teaches the use of a pulsed plasma discharge in order to form a coating on a substrate. Neither reference teaches the use of a *pulsed* plasma discharge to form a coating from an *atomised* coating forming material, as taught by the present invention. Specifically Badyal teaches the use of a vacuum apparatus in order to draw volatile organic species into a vacuum chamber in order for deposition to take place. It is part of the common general knowledge that reducing the pressure (i.e., creating a vacuum) would reduce the boiling point of the monomeric coating forming material so that the vapour would be drawn into a chamber. It is evident that the monomer/coating forming material is not atomised or introduced through an atomiser. The choice of coating forming material capable of being introduced into the chamber in Badyal is therefore severely restricted to volatile components and the use of a vacuum chamber.

Applicant asserts that the technical problem addressed by the current invention is the use of a pulsed plasma discharge to retain the chemical properties of an atomised coating forming material. Applicant therefore believes that the current application is a non-obvious improvement over the cited prior art because the solution it provides requires unique skill, insight and ingenuity on behalf of the inventor and is not a mere incremental workshop improvement over the teachings of the prior art.

The combination of the two references does not lead one of ordinary skill in the art to the present invention; rather the combination of the method of Goodwin with the pulsed discharge of Badyal would raise further difficulties and questions in relation to the suitability of atomising coating forming material and/or the role of the vacuum in combination with the pulsed plasma discharge. The teachings of Badyal

do not align with Goodwin in obviously presenting a simple modification to provide a solution to the technical problem, because there are a number of differences between the citations, as indicated previously. Thus, Applicant submits that claim 1 is patentable in its current form.

Claims 3, 4, 10, 12, 15, 17-21, 26, 28 and 31 each recite combinations of features of independent claim 1, and hence claims 3, 4, 10, 12, 15, 17-21, 26, 28 and 31 are patentable over Goodwin in view of Badyal for at least the above-stated reasons that claim 1 is patentable over Goodwin in view of Badyal.

III. DOUBLE PATENTING:

The Examiner has provisionally rejected claims 1 and 5 under the judicially created doctrine of obviousness-type double patenting in view of claims 1 and 14 of copending Application No. 10/514,661 in view of Goodwin. Office Action (10/14/2008), page 5.

Further, the Examiner has provisionally rejected claims 6-11, 14 and 20-23 under the judicially created doctrine of obviousness-type double patenting in view of claims 1, 5-8, 11 and 15-21 of copending Application No. 10/514,661 in view of Goodwin and in further view of Badyal. Office Action (10/14/2008), page 6.

Since none of these Applications at issue have been allowed, Applicant defers responding to this rejection.

Applicant notes that if the "provisional" double patenting rejection is the only rejection remaining in an application (either the present application or in Application No. 10/514,661), then the Examiner should withdraw the rejection and permit that application to issue as a patent. M.P.E.P. §804. The "provisional" double patenting rejection may then be converted into a double patenting rejection in the other application at the time the one application issues as a patent. M.P.E.P. §804.

IV. CONCLUSION:

As a result of the foregoing, it is asserted by Applicant that claims 1, 3-12, 15-23, 25-26, 28 and 31-35 in the Application are in condition for allowance, and Applicant respectfully requests an allowance of such claims. Applicant respectfully requests that the Examiner call Applicant's attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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